

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KENNETH RUDGE,

Petitioner,

v.

16-CR-311 (KMW)

ORDER

UNITED STATES OF AMERICA,

Respondent.
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KIMBA M. WOOD, United States District Judge:

Pending before the Court are three *pro se* submissions by Defendant Kenneth Rudge: (1) a “motion to withdraw guilty plea” filed on November 22, 2019 (ECF No. 408); (2) a 28 U.S.C. Section 2255 petition to vacate, set aside, or correct his sentence filed on May 21, 2020 (ECF No. 425); and (3) a 28 U.S.C. Section 2255 petition to vacate, set aside, or correct his sentence filed on June 25, 2020 (ECF No. 437). Defendant’s submissions raise substantially the same issues: that trial counsel was ineffective, that Defendant did not knowingly and intelligently enter his guilty plea, and that the 18 U.S.C. Section 924(c) counts that he was convicted on (Counts One and Two) are invalidated by *United States v. Davis*, 139 S. Ct. 2319 (2019).

In a separate letter submitted on Defendant’s behalf on June 12, 2020, Defendant requests the Court to appoint counsel to assist him with his Section 2255 petition. (ECF No. 433.) Because of the complexity of some of the issues raised in Defendant’s petitions—namely, Defendant’s claim that his plea agreement failed to describe correctly the predicate offense for his 18 U.S.C. Section 924(c)(1)(A)(iii) conviction—the Court finds that Defendant’s ability to present his case would be improved with the aid of counsel. *See* 18 U.S. Code § 3006A(a)(2)(B).

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Accordingly, the Court appoints CJA counsel on duty, Andrew G. Patel, to represent Defendant in connection with the three aforementioned *pro se* submissions. Before June 25, 2021, Defendant may, through counsel, file a consolidated memorandum of law in support of Defendant's Section 2255 petition, covering all of Defendant's factual and legal allegations. The Government may file a supplemental response by July 9, 2021. If Defendant wishes to file a reply, he must do so by July 23, 2021.

The Clerk of Court is respectfully directed to mail a copy of this Order, and the docket sheets for 16-cr-311 and 20-cv-3996 (see ECF No. 458) to Defendant.

SO ORDERED.

Dated: New York, New York
April 30, 2021

/s/ Kimba M. Wood
KIMBA M. WOOD
United States District Judge